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**TEXAS
PARKS AND WILDLIFE DEPARTMENT**
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September 12, 1991

RQ-200

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Honorable Dan Morales
Attorney General of Texas
P.O. Box 12548
Capitol Station
Austin, Texas 78711-2548

RECEIVED
SEP 19 91
Opinion Committee

Re: Request for an Attorney General's Opinion Letter.

Dear General Morales:

In this most recent regular legislative session HB 1966 was enacted which amended Chapter 12 of the Texas Parks and Wildlife Code (Code) by adding a new Section 12.1106. This new section authorizes the Department to seize vessels which are not documented by the United States Coast Guard or otherwise registered in accordance with the federal Boating Act of 1958 if the person using the vessel is charged with an offense under Section 66.006 of the Code.

The section further authorizes the Department to sell the seized vessel if the person using it is convicted of an offense under Section 66.006 of the Code and to apply the proceeds of the sale to the State Treasury's Game, Fish, and Water Safety Fund.

Even though charges are normally filed for violations of Section 66.006 in Justice Court as Parks and Wildlife Code misdemeanor offenses, the Department is concerned that Justice Court does not have the appropriate jurisdiction to constitutionally consider issues of confiscation of property. Therefore we intend to file petitions for confiscation in the court of "appropriate jurisdiction" as stated in Section 12.1106(b)(1), (line 21 of HB 1966 as attached). The Department believes that the appropriate court will be the Constitutional County Court, the statutory County Court, or the District Court in the county where the seizure took place. The particular court will be determined by the fair market value of the particular boat in question.

**ACCOMPANIED BY ENCLOSURES —
FILED SEPARATELY**

Honorable Dan Morales
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The Department would like two questions answered. First, what is the "court of appropriate jurisdiction" required in Section 12.1106(b)(1). Second, if the court is selected based upon the value of the property at issue, should fair market value be used, or if not, what method of selecting the appropriate court should be used.

For your convenience, we have included a copy of the bill with this request. Please free to contact me, at 389-4419 or Chester Burdett, Director of Law Enforcement at 389-4623 if you require additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul M. Shinkawa".

Paul M. Shinkawa
Director, Legal Services Division

enclosure